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SUBJECT: PERU CREATES ENVIRONMENT MINISTRY, NAMES ENVIRONMENTALIST
AS NEW MINISTER

SUMMARY

1. (U) The Government of Peru officially announced the creation of the Ministry of Environment and named the first Minister, ecologist Antonio Brack. The new Ministry will incorporate most of the existing environmental agencies and technical experts under one roof, and strengthen the government's ability to tackle environmental issues by giving the Ministry power to supervise environmental management and impose sanctions for violations. Antonio Brack is a well-respected pro-development ecologist, public commentator on the environment and consultant to mining companies. He had been tasked by President Alan Garcia several months ago with designing the future ministry, and reaction to his selection as the new minister is cautiously optimistic. Both events are clear signs that Peru is moving in a positive direction on the environment and in support of PTPA goals.

THE ANNOUNCEMENT

2. (U) On May 13, 2008, the Government of Peru officially announced the creation of the Ministry of Environment at a ceremony in which President Garcia signed the legislative decree creating the Ministry. Ambassador and other chiefs of mission, Secretary General of the Organization of American States Jose Miguel Insulza were invited to witness the signing, as was visiting German Chancellor Angela Merkel, in town for the annual Latin America and Caribbean-EU summit. Merkel publicly promised that the German Ministry of Environment will collaborate and support the development of the future Peruvian Ministry. The ministry does not yet have a physical home.

3. (U) The Ministry was created through a "legislative decree", a kind of hybrid decree that has the force of law. The government is currently enabled to pass "legislative decrees" by special powers that the Congress ceded to the Executive at the beginning of the year in order to expedite the implementation of the U.S. Peru Trade Promotion Act (PTPA). Some members of the Peruvian Congress have

pointed out that while the President can issue decrees for items related to the PTPA, the creation of a new ministry requires a change in the Organic Law and this can only be changed by Congress. Some people question if the special powers are broad enough to create a new ministry. The government has been using this vehicle for other non-PTPA related topics.

THE STRUCTURE

14. (U) The Ministry of Environment will incorporate the current National Institute for Natural Resources (INRENA), the National Council for the Environment (CONAM), and technical specialists on environmental topics from each ministry. The Peruvian National Geographic Institute and DIGESA (animal and plant health) will also be absorbed by the new ministry. The new ministry will have control over mining. A major change from the original proposal is the decision, under the final decree, that will place the management of the country's hydro resources, such as basins and water management, under the Ministry of Agriculture.

15. (U) The newly created Ministry will have a Vice Ministry of Natural Resources Strategic Development and another one for Environmental Management. Other features:

- The ministry will design the plans for environmental standards as well as define maximum permissible limits for the different sectors.

- It will propose the modification or creation of Natural Protected Areas.

- It will establish and enforce sanctions, penalties, seizures, immobilizations, closures or suspensions for environmental crimes;

- It will be in charge of the National Plan for Environmental Action;

- It will establish a Tribunal for environmental disputes and an Environmental Advisory Commission.

THE NEW MINISTER - ANTONIO BRACK

16. (U) President Alan Garcia announced that the ecologist Antonio Brack will be the first Minister of the Environment. President Garcia stated that Brack had "all my support in order to do what is necessary to defend the environment." He is viewed as a pro-development environmentalist, acknowledging that development is needed in Peru, but that there is a need for the new ministry to ensure sustainable development and the conservation of biodiversity. He has been a consultant to large mining projects, but supportive of incorporating environmental management plans.

17. (SBU) An articulate public spokesman for sustainable development, Brack has broadcast his themes through his regular environmental TV series "The Good Earth" ("La Buena Tierra") where he shows how environmentally-conscious activities can be positive and benefit the areas where they are incorporated. He publicly supports the PTPA and believes that it will inject responsibility into the mining and forestry sectors. He criticizes informal mining and his program has sought to educate the public on the deleterious effects of informal illegal mining. Brack is not a politician, preferring to speak his mind on both general and technical topics. He was the head of CONAM, but left admitting that he did not like the politics. It is expected that he will be able to bring technical, non-political, individuals to the Ministry that will likely be more concerned with the environment rather than political gain. COMMENT: Brack has good relations with the U.S. Mission and has even devoted two of his television shows to highlight USAID's Alternative Development program. END COMMENT.

REACTION ON THE NEW ENVIRONMENT MINISTRY

18. (SBU) Reactions on new Ministry and selection of Antonio Brack are mixed, with NGOs and extractive industry representatives cautiously optimistic.

- Javier Jahnke, member of the Red Muqui network (a grouping of development NGOs) said that although Brack is a well known ecologist, his position as consultant to the Majaz mine (which is handling the embattled Rio Blanco mining Project in Piura) cast

doubts on his appointment. (NOTE: This network includes some more radical anti-mining NGOs that have opposed various issues on the new Ministry since the beginning.)

-- A congresswoman from Piura, Marisol Espinoza, questioned the appointment of Brack given his relationship with the Majaz mine.

-- Ysaac Cruz, President of the Energy, Petroleum, and Mining Society stated, "We think its fine that the Environment Ministry supervises the mining sector, but it should also prioritize and fight against illegal mining and forest depredation."

-- Gloria Ramos, President of the Environment and Ecology Commission from Congress stated, "The main deficiency in the creation of this new Ministry is the lack of debate over its objectives and functions. Other proposals have not been taken into account and only a small group of people related to the executive branch have had access to the project."

-- Ismael Benavides, Minister of Agriculture, stated, "The Environment Ministry will contribute to the reduction of social conflicts caused by environmental issues. All sectors should collaborate with this new entity that will look after environmental

resources."

-- Carlos Santa Cruz, General Manager of Yanacocha, the hemisphere's largest gold mine told us he believed Brack was a "constructive" interlocutor on mining and environmental issues.

NEW MINISTER'S GOALS: FIGHTING DEFORESTATION

¶9. (U) According to the newly appointed Minister, Antonio Brack, the main challenge that this new ministry will have is with the low level of investment in environmental management. Currently, investment only amounts to 0.01% of GDP, while the costs related to bad environmental management make up 3.9% of GDP. Brack stated that solving the deforestation problem in the jungle is crucial, as there are more than 10 million deforested hectares of land and more hectares of forests are being cut down and burned every year.

NEW ENFORCEMENT INITIATIVE

¶10. (U) The new ministry will create several new initiatives; including in this is the creation of the Office for Environmental Evaluation and Enforcement (OEFA). The OEFA will be a part of the Environment Ministry, but will have independent decision making authority. The new legislative decree provides authorities to OEFA to enforce environmental standards in all the sectors (mining, fisheries, hydrocarbons, industry, and agriculture). OEFA will have the authority to supervise, sanction, and suspend operations that have an environmental impact that is contrary to established norms (this includes the ones performed by local, state, and municipal authorities).

COMMENT:

¶11. (SBU) The US-Peru Free Trade Agreement with its strict environment and forestry provisions fueled the idea of establishing an Environmental Ministry. However, the creation of this ministry is the result of several decades of work in Peru on environmental programs. A World Bank report (Republic of Peru Environmental Sustainability: A Key To Poverty Reduction In Peru, Country Environmental Analysis - May 2006) on environmental sustainability in Peru states that over this time, "Peru has restructured its legal and regulatory landscapes, undertaken numerous policy initiatives and dramatically expanded and strengthened its institutional capacity for protecting and managing the natural resources and environmental quality that are vital to sustainable growth and poverty reduction." In the past twenty-five years, Peru has established a system of national parks and forestry reserves that cover more than one-fifth of the national territory. It is moving quickly to replace polluting gasoline with cleaner natural gas in buses, cars and factories. "While the government made significant advances, it still faces the serious challenge of slowing and reversing environmental degradation," according to the World Bank's most recent report.

¶12. (SBU) We see the establishment of the new ministry as a positive step for the Government of Peru in addressing environmental degradation. Overall, the sentiment here is positive on both the new ministry and the selection of Antonio Brack. Observers are pleased with sanctioning authority explicitly given, tough penalties in Article 310, and what look like substantial budget resources from the concession and forest permit fees going directly to the regulatory authority OSINFOR or the forestry and wildlife areas. A few concerns have also been cited, which include the 60-year period of concessions, which seems abnormally long. Also, responsibility for forestry management remains in the Agriculture ministry. As the new ministry begins its activities, we will have to keep tabs on the details of the implementing regulations, and the GOP's abilities to turn good laws into good practices.